IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

Arbitration Application No.156 of 2005

M/s.Palak Construction Co. Applicant

Vs.

Union of India Respondents

Mr.G.L.Masand for applicant.

Mr.T.J.Pandian for respondents.

CORAM: B.H.MARLAPALLE, J.

February 10, 2006.

P.C.

. Heard Mr.Masand, the learned counsel for the applicant-contractor. The learned counsel for the respondents has placed on record the affidavit-in-reply filed by the Divisional Engineer of Central Railways, Pune Division.

. It is evident that by the first order dated 20-5-2002 the General Manager, Central Railways appointed the arbitral tribunal and referred five claims involving a total amount of Rs.14,01,814=27. The applicant was not satisfied and, therefore, another application under section 11 of the Arbitration and Conciliation Act, 1996 came to be

moved before this Court. The said application was allowed by the order dated 29-7-2003 and it was directed that the claims mentioned in the letter dated 14-1-2003 be referred to the same arbitral tribunal as has been pointed out vide letter dated 20-5-2002. The affidavit-in-reply filed by the Divisional Engineer clearly states that pursuant to the order passed by this Court on 29-7-2003 the General Manager, Central Railway vide his letter dated 13-11-2003 has informed the applicants that additional eight claims have been referred to the very same arbitral tribunal for adjudication. It is further clear that the arbitral tribunal is presided over by Mr. K.Sunderarajan, Senior Systems Manager (EDP) and Mr. S.S. Kedia, Dy. CE is the Co-Arbitrator for the Contractor and Mr.Alok Kumar Gupta,Dy.CE is the Co-arbitrator on behalf of the Railways. The affidavit further states that the applicant has not appeared before the arbitral tribunal and filed the claims statement. It is for the applicant to take due steps and that too timely steps.

. So far as this application is concerned, it cannot be entertained as the arbitral proceedings are

already initiated by the arbitral tribunal appointed earlier and the application is rejected as not maintainable.

(B.H.MARLAPALLE,J.)